

#### 4. Parameters for residency for voters. (Taylor)

The legal definition of “residency” is the “act or fact of living in a given place for some time.” This term is distinguished from one’s “domicile,” which is defined legally as “residency with an intention to make the place one’s home.” A person may therefore have more than one residence, but only one domicile. Because a person’s “domicile” is subjective to the person’s own determination, states have commonly required “residency” as manifested by a particular length of time residing within the state’s borders for purposes of certain legal rights or privileges.

South Dakota had a durational residency requirement to become a “qualified elector” at the adoption of the state constitution in 1889. This requirement was originally located in Article VII, § 1 as one year within the country, six months within the state, one month within the county, and ten days within the precinct. This definition was eventually removed through amendment. Currently in South Dakota, there is no durational residency requirement. Section 12-4-1 of the Code simply requires every person “residing within the state” who is otherwise qualified through age or as a resident of a federal area to register in accordance with registration requirements.

The standard for determining the parameters of allowable voter residency limitations appears to be a “reasonableness” test. Through several cases since 1965, the Supreme Court of the United States has established this framework by determining what is and is not reasonable. Below is a summary of their holdings:

1. *Carrington v. Rash*, 380 U.S. 89 (1965): holding as unconstitutional a state statute preventing members of the armed forces who moved to the state from voting in state elections regardless of the length of time they had lived in the state or their status as property owners.
2. *Oregon v. Mitchell*, 400 U.S. 112 (1970): holding as constitutional the provision of the Voting Rights Act of 1970 that prohibits states from enforcing a durational residency requirement for voters in federal elections; states may impose durational requirements for state elections under the Act, however.
3. *Evans v. Cornman*, 398 U.S. 419 (1970): holding that residents on a federal enclave within the borders of a state may vote in state elections.
4. *Dunn v. Blumstein*, 405 U.S. 330 (1972): holding as unconstitutional a state durational requirement of one year residency within the state because it is too long. While states may require their voters to be residents, states may not put such a restriction on the right to vote or the right to travel while other means of determining bona fide residency are available.
5. *Holt Civic Club v. Tuscaloosa*, 439 U.S. 60 (1978): holding that residents outside the boundaries of a municipality are not subjected to unconstitutional prohibitions against voting in municipal elections so long as the municipality excludes extraterritorial residents for reasons other than race or any other suspect classification.